

Before the
FEDERAL COMMUNICATIONS COMMISSION DA 96-639
Washington, D.C. 20554

In the Matter of)	MM Docket No. 96-99
)	
Great American Broadcasting)	
of Hutchinson, Inc.)	
)	
Order to Show Cause Why the)	
License for Station KWHK(AM))	
Hutchinson, Kansas Should Not)	
be Revoked)	
)	

**ORDER TO SHOW CAUSE
AND
HEARING DESIGNATION ORDER**

Adopted: April 19, 1996

Released: April 25, 1996

By the Assistant Chief, Audio Services Division:

1. The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him for consideration: (a) a license held by Great American Broadcasting of Hutchinson, Inc. ("Great American") for Station KWHK(AM), Hutchinson, Kansas, and (b) the results of an investigation into the station's silent status.¹

2. The Commission's records indicate that KWHK(AM) suspended operations on February 4, 1993, when Great American filed for bankruptcy under Chapter 7 of the Bankruptcy Act.² Lynn Allison was appointed trustee of the bankrupt's estate. However,

¹ The Mass Media Bureau has been delegated authority to issue and release Show Cause Orders in cases involving silent broadcast stations. See Debrine Communications, Inc., 7 FCC Rcd 2118 (1992).

² The license of KWGH(AM) expires on June 1, 1997 (File No. BR-900129VP, granted May 21, 1990).

Mr. Allison never filed an application for Commission consent to assign the license to him, in his capacity as court-appointed trustee, as required by Section 310(d) of the Communications Act of 1934, as amended, and Section 73.3541 of the Commission's rules. Nevertheless, the Commission's records also indicate that station operations resumed for brief periods in 1993 and 1994. Inspections of the station by the Compliance and Information Bureau between 1991 and 1994 uncovered numerous rule violations and, in fact, a Notice of Violation was issued in April 1993. Commission records also indicate that the trustee, in the bankruptcy action, "abandoned all right, title and interest in and to a license to radio station KWHK-AM" in 1994 and that the bankruptcy proceeding has been terminated. The station is silent and is not presently authorized to remain silent. The station is still licensed to Great American and it appears that Great American has permanently discontinued operations. In view of the foregoing, Great American is in apparent violation of Sections 73.1740(a)(4)³ and 73.1750⁴ of the Commission's Rules.

3. Accordingly, IT IS ORDERED, That pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Great American Broadcasting of Hutchinson, Inc. IS DIRECTED TO SHOW CAUSE why the license for Station KWHK(AM) should not be REVOKED, at a hearing to be held at a time and location specified in a subsequent Order, upon the following issues:

³ Section 73.1740(a)(4) provides:

"In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control the licensee make it impossible to comply with the allowed period, an informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary."

⁴ Section 73.1750 provides:

"The licensee of each station shall notify the FCC in Washington, D.C. of permanent discontinuance of operation at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, D.C. for cancellation."

(a) To determine whether Great American Broadcasting of Hutchinson, Inc. has the capability and intent to expeditiously resume the broadcast operations of KWHK(AM) consistent with the Commission's Rules.

(b) To determine whether Great American Broadcasting of Hutchinson, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Great American Broadcasting of Hutchinson, Inc. is qualified to be and remain the licensee of Station KWHK(AM).

4. IT IS FURTHER ORDERED, That, pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the BURDEN OF PROCEEDING with the introduction of evidence and the BURDEN OF PROOF with respect to the issues specified above shall be upon the MASS MEDIA BUREAU.

5. IT IS FURTHER ORDERED, That to avail itself of the opportunity to be heard, the licensee, pursuant to Section 1.91(c) of the Commission's Rules, SHALL FILE with the Commission within thirty (30) days of the receipt of this Order a WRITTEN APPEARANCE stating that he will appear at the hearing and present evidence on the matters specified in the Order. If the licensee fails to file a written appearance within the time specified, or within thirty (30) days of receipt of this Order the licensee files a written statement expressly waiving its right to a hearing, the licensee's right to a hearing SHALL BE DEEMED TO BE WAIVED. In the event the right to a hearing is waived, the Presiding Judge, or the Chief Administrative Law Judge if no Presiding Judge has been designated, SHALL TERMINATE the hearing proceeding and CERTIFY this case to the Commission in the regular course of business, and an appropriate Order shall be entered.⁵

FEDERAL COMMUNICATIONS COMMISSION

Stuart B. Bedell
Assistant Chief, Audio Services Division
Mass Media Bureau

⁵ The Mass Media Bureau has been delegated authority to issue Revocation Orders in cases involving silent broadcast stations. See Radio Northwest Broadcasting Company, 4 FCC Rcd 596, n.3 (1989).